



Robert W. Quinn, Jr.
Federal Government Affairs
Vice President

Suite 1000
1120 20th Street NW
Washington DC 20036
202 457 3851
FAX 202 457 2545

February 11, 2003

VIA ELECTRONIC FILING

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: Notice of Ex Parte Presentation
In the Matter of Review of Section 251 Unbundling Obligations of Incumbent
Local Exchange Carriers and Implementation of the Local Competition Provisions
in the Local Telecommunications Act of 1996, CC Docket Nos. 01-338; 96-98;
98-147

In the Matter of Appropriate Framework for Broadband Access to the Internet
Over Wireline Facilities, CC Docket Nos. 02-33; 95-20; 98-10

Dear Ms. Salas,

Yesterday, I met with Dan Gonzalez, Commissioner Martin's Senior Legal Adviser, to discuss issues related to the aforementioned proceedings. During the course of those discussions, I reiterated AT&T's position as expressed in prior filings and ex partes. I also provided copies of the attached documents. The positions expressed in the discussions in each of those areas were consistent with those contained in the Comments, Reply Comments and ex parte filings previously made by AT&T in the aforementioned dockets. One electronic copy of this Notice is being submitted for each of the referenced proceedings in accordance with the Commission's rules.

Sincerely,

Robert W. Quinn Jr.

cc: Dan Gonzalez



February 4, 2003

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th St. SW
Washington, DC 20054

RE: Triennial Review of the Commission's Unbundling Rules CC Docket Nos. 96-98,
98-147, 01-338

Dear Chairman Powell:

As a technology association dedicated to developing strong policies that foster technology's abilities to be an engine for innovation, economic growth and opportunity, I am writing to urge the commission to adopt a pro-competitive unbundling policy that will unleash true broadband competition.

CapNet, a bipartisan technology association representing more than forty software, and Internet companies, advocates expanding broadband access for consumers and businesses alike. We believe broadband policy should encourage investment, competition, increase the potential for greater innovation, and improve products and services for consumers.

Unfortunately, recent reports about efforts to convince the FCC that "new wires" require "new rules" could spell financial ruin for Internet broadband providers attempting to offer competition to incumbent local exchange carriers. Even more significantly, it will harm the Nation's economy generally and reduce consumer benefit by dampening competition for broadband services. For broadband competition to thrive, unbundling is essential for last mile facilities -- whether copper, fiber, or hybrid fiber copper. Excluding last mile facilities from unbundling obligations depending up whether they are packet-based, copper, fiber or copper/fiber hybrid could undermine the very broadband investments that the Commission is trying to encourage.

We disagree with the notion that freeing the Bell companies of their unbundling obligations would give them added incentive to make new investments to create additional bandwidth capacity in their networks. Instead, we believe that full and fair competition, which today requires competitive access to ILEC loop facilities, is the powerful driver for a more prosperous broadband future.

There are three primary faults with the Bell proposal.

First, distinguishing between voice and fiber assisted packet data networks moves us away from a vision of a converged packet switched network capable of supporting integrated services. If preferential regulatory treatment were granted for Bell packet or fiber broadband operations, the Bells may be able to classify nearly all of their investment opportunistically as intended for broadband data services to avoid pro-competitive unbundling and interconnection obligations. In a converged network, voice can be carried as data raising the possibility that even facilities used for legacy services would avoid unbundling obligations. As increasing portions of the network become laced with fiber -- and hence unregulated — it will become increasingly difficult to implement unbundling and interconnection rules for the rest of the Bells' local access network.

Second, eliminating, diluting or weakening the market opening requirements on incumbent telephone companies will remove the critical incentives needed to open up the local monopoly to competition and encourage new investment in broadband facilities. As a result, such a policy could dramatically decrease the number of firms providing broadband and related services, deny consumer innovative new choices, and stall needed broadband investment.

Third, this idea of Balkanizing the network and treating copper and fiber facilities differently was expressly rejected by Congress just last year. I find it troubling that the FCC would seek to do by rule, what the Congress refused to do by law.

Greater broadband and data competition has the potential to jumpstart this staggering economy. The Commission must take bold and decisive action – assuring the market of a predictable regulatory landscape and encouraging investment, by retaining unbundled access to all facilities at affordable prices.

With kindest regards,

A handwritten signature in black ink that reads "Tim Hugo". The signature is written in a cursive, slightly stylized font.

Tim Hugo

cc: Hon. K. Q. Abernathy
Hon. J. S. Adelstein
Hon. M. J. Copps
Hon. K. J. Martin
W. Maher, Chief, Wireline Competition Bureau

FOR IMMEDIATE RELEASE
February 3, 2003

For additional Information:
Tim Hugo, CapNet
202-857-5936, TimHugo@bot.org
Jaime Hjort, CapNet
202-857-5909, JaimeHjort@bot.org

High Tech Industry Advises FCC to Weigh Economic Health in Considering Broadband Proposals That Favor Bell Companies

Washington, DC (Feb. 3) – CapNet Executive Director Tim Hugo today urged the FCC to adopt a pro-competitive unbundling policy in order to unleash true competition for broadband services.

“We disagree with the notion that freeing the Bell companies of their unbundling obligations would give them added incentive to make new investments to create additional bandwidth capacity in their networks,” Hugo wrote in a letter to FCC Chairman Michael Powell. “Recent reports about efforts to convince the FCC that new wires require new rules could spell financial ruin for Internet broadband providers attempting to offer competition to incumbent local exchange carriers.”

CapNet, a bipartisan technology association representing more than forty software and Internet companies, sent the letter because they are increasingly concerned with recent reports about efforts by FCC Chairman Powell to free the Bell companies of their unbundling obligations.

“I find it troubling that the FCC would seek to do by rule what the Congress failed to do by law,” said Hugo. “We urge the FCC to ensure that any broadband policy changes are pro-competitive, encourage investment, increase the potential for greater innovation, and improve products and service for consumers.”

In the letter, Hugo outlined three primary flaws of the Bell proposal endorsed by FCC Chairman Powell. A copy of the letter is available attached.

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*CapNet is a national technology organization with a regional core in the Greater Washington region.
CapNet is affiliated with the Greater Washington Board of Trade, the largest regional network of
business and non-profit leaders and the only organization representing all industry sectors.*